

## **Categorical Exclusion Determination and Decision Record for Right-of-Way Grant for PacifiCorp (OR 9445) under Federal Land Policy and Management Act of 1976 (FLPMA)**

### **CE-OR-115-08-03**

#### **Description of Proposed Action**

PacifiCorp has applied for reauthorization of Right-of-Way Grant OR 9445. The original authorization allowed the construction, use, maintenance, and repair of an existing 12 kV overhead electrical distribution line. The line is located on Bureau of Land Management (BLM) land in the Cobleigh Road area near Butte Falls, Oregon. This distribution line authorization was originally issued in April 5, 1977 and expired April 4, 2007. The line would continue to be used as originally authorized and no changes in use are proposed. The term of the new right-of-way grant would be for a fifty (50) year period. **This is an existing line and no new construction is necessary.**

The right-of-way is 20 feet wide, 1.252 miles long, and contains approximately 3 acres. The route is shown on the attached map.

The project is located on BLM-administered land near and along Cobleigh Road in S½SW¼ section 17; W½NW¼ and SE¼NW¼ section 20; and NE¼NW¼ and NW¼SE¼ section 29, Township 34 South, Range 2 East, Willamette Meridian in Jackson County, Oregon.

#### **Plan Conformance Review**

The Bureau of Land Management did not scope this proposal and the public was not involved in its development. This proposal is consistent with policy directed by the following:

- *Medford District Record of Decision and Resource Management Plan*, approved June 1995;
- *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl*, approved April 1994;
- *Record of Decision Amending Resource Management Plans for Seven Bureau of Land Management Districts and Land and Resource Management Plans for Nineteen National Forests Within the Range of the Northern Spotted Owl*, approved March 2004;
- *Final Supplemental Environmental Impact Statement: Management of Port-Orford-Cedar in Southwest Oregon*, approved May 2004;
- *Record of Decision and Standard and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standard and Guidelines*, approved January 2001; and
- *Medford District Integrated Weed Management Plan Environmental Assessment* (1998) and tiered to the *Northwest Area Noxious Weed Control Program* (1985).

The proposed action is in conformance with the direction given for the management of public lands in the Medford District by the Oregon and California Lands Act of 1937, Federal Land Policy and Management Act of 1976, Endangered Species Act of 1973, Clean Water Act of 1987, Safe Drinking Water Act of 1974 (as amended 1986 and 1996), Clean Air Act of 1990 (as amended), and Archaeological Resources Protection Act of 1979.

This proposal is consistent with management direction in the Medford District Resource Management Plan that directs the BLM to "Continue to make BLM-administered lands available for needed rights-of-way where consistent with local comprehensive plans, Oregon statewide planning goals and rules, and the exclusion and avoidance areas identified in this RMP" (USDI 1995, p. 82).

### **Project Design Features**

No project design features specified.

### **Categorical Exclusion Determination**

This proposed action qualifies as a categorical exclusion as provided in United States Department of the Interior Departmental Manual 516 DM 11.9. This section allows for

- "Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes" (516 DM 11.9 E(16)).
- "Grants of right-of-way wholly within the boundaries of other compatibly developed rights-of-way" (516 DM 11.9 E(12)).

Before any action described in the list of categorical exclusions may be used, the "extraordinary circumstances," included in 516 DM 2, Appendix 2, must be reviewed for applicability (see attached review). After review, the BLM determined no extraordinary circumstances exist that would cause the proposed action to have a significant environmental effect. The action will not require additional analysis.

### **Contact Person**

For additional information concerning this project, contact Leslie Voelkel, Project Leader, at (541) 618-2217.

*Robyn Wicks*  
Prepared by

*10/22/07*  
Date

### **Decision**

It is my decision to authorize issuance of a fifty (50) year right-of-way grant to PacifiCorp for a 12 kV overhead electrical distribution line, as described in the Proposed Action.

### **Decision Rationale**

The proposed action has been reviewed by Butte Falls Resource Area staff and appropriate Project Design Features, as specified above, will be incorporated into the proposal. Based on the attached NEPA (National Environmental Policy Act) Categorical Exclusion Review, I have determined the proposed action involves no significant impact to the environment and no further environmental analysis is required.



10/22/07

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Christopher J. McAlear  
Field Manager  
Butte Falls Resource Area

Date

## Administrative Remedies

In accordance with BLM's Rights-of-Way regulations (43 CFR § 2801.10), administrative review of right-of-way decisions requiring National Environmental Policy Act assessment will be available under 43 CFR Part 4 to those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized would cause injury, and who have established themselves as a "party to the case" (see 43 CFR § 4.410). Other than the applicant for the right-of-way, in order to be considered a "party to the case" the person claiming to be adversely affected by the decision must show that they have notified the BLM of their alleged injury through their participation in the decisionmaking process (see 43 CFR § 4.410(b) and (c)). The latest date that any affected parties received the Notice of Decision will establish the date initiating a 30-day appeal period.

## Effective Date of Decision

This is a land decision on a right-of-way application. **All BLM decisions under 43 CFR Part 2800 remain in effect pending an appeal** (see 43 CFR § 2801.10) unless the Secretary rules otherwise. Rights-of-Way decisions that remain in effect pending an appeal are considered as "in full force and effective immediately" upon issuance of a decision. Thus, this decision is now in effect.

## Right of Appeal

This decision may be appealed to the U.S. Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals (Board) by those who have a "legally cognizable interest" to which there is a substantial likelihood that the action authorized in this decision would cause injury, and who have established themselves as a "party to the case" (see 43 CFR § 4.410). If an appeal is taken, a written notice of appeal must be filed with the BLM officer who made the decision in this office by close of business (4:30 p.m.) not more than 30 days after this decision is approved (or the date the affected parties received notice of the decision). Only signed hard copies of a notice of appeal that are delivered to the BLM Medford District Office, 3040 Biddle Road, Medford, Oregon 97504 will be accepted. Faxed or e-mailed appeals will not be considered.

In addition to the applicant, anyone who has participated in the National Environmental Policy Act process for this project will qualify as party to the case (see 43 CFR § 4.410(b)). However, in order to qualify as an appellant, a "party to the case," you also have the burden of showing possession of a "legally cognizable interest" that has a substantial likelihood of injury from the decision (see 43 CFR § 4.410(d)). Furthermore, you may raise on appeal only those issues you raised in comments on the environmental document or that have arisen after the opportunity for comments closed (see 43 CFR § 4.410(c)).

The person signing the notice of appeal has the responsibility of proving eligibility to represent the appellant before the Board under its regulations at 43 CFR § 1.3. The appellant also has the burden of showing that the decision appealed from is in error. The appeal must clearly and concisely state which portion or element of the decision is being appealed and the reasons why the decision is believed to be in error. If your notice of appeal does not include a statement of reasons, such statement must be filed with this office and with the Board within 30 days after the notice of appeal was filed.

According to 43 CFR Part 4, you have the right to petition the Board to stay the implementation of the decision. Should you choose to file one, your stay request should accompany your notice of appeal. You must show standing and present reasons for requesting a stay of the decision. A petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

A notice of appeal with petition for stay must be served upon the Board, the Regional Solicitor and Avista Utilities at the same time such documents are served on the deciding official at this office. Service must be accomplished within fifteen (15) days after filing in order to be in compliance with appeal regulations (43 CFR § 4.413(a)). At the end of your notice of appeal, you must sign a certification that service has been or will be made in accordance with the applicable rules (i.e., 43 CFR §§ 4.410(c) and 4.413) and specify the date and manner of such service.

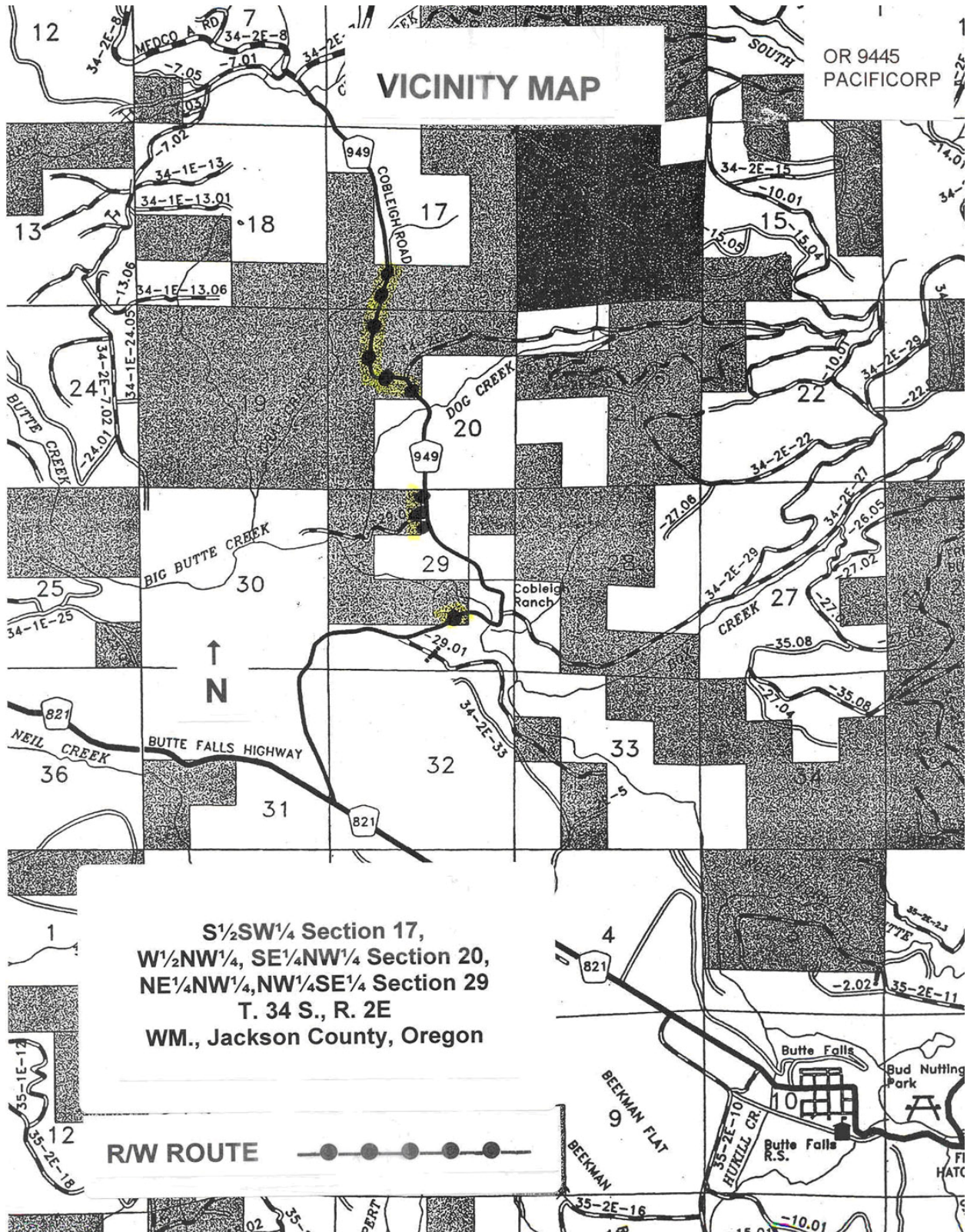
The Board will review any petition for a stay and may grant or deny the stay. If the Board takes no action on the stay request within 45 days of the expiration of the time for filing a notice of appeal, you may deem the request for stay as denied, and the BLM decision will remain in full force and effect until the Board makes a final ruling on the case.

### **Contact Information**

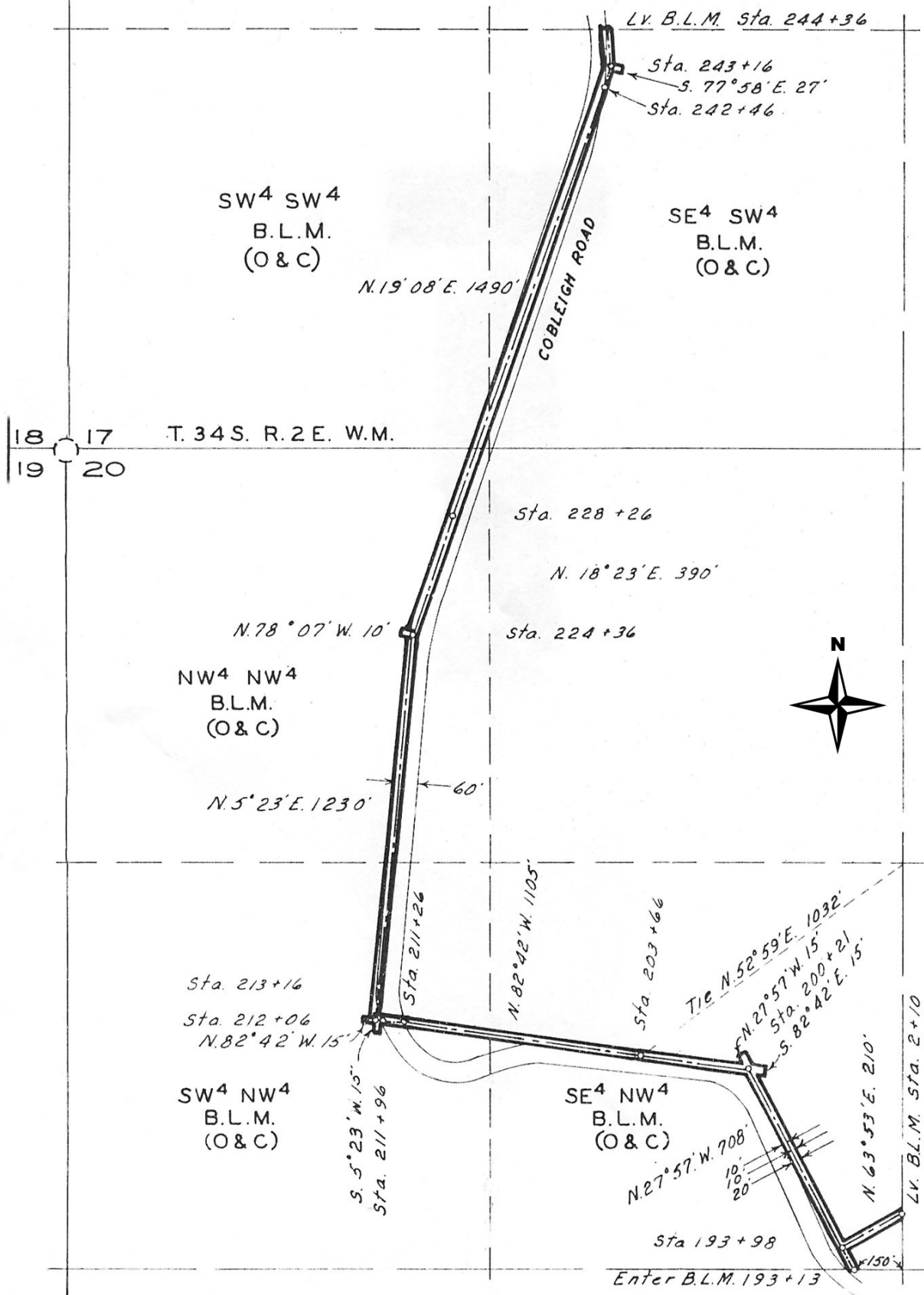
For additional information contact: Christopher J. McAlear, Butte Falls Resource Area, 3040 Biddle Road, Medford, Oregon 97504 or telephone 541-618-2217. Additional contact addresses include:

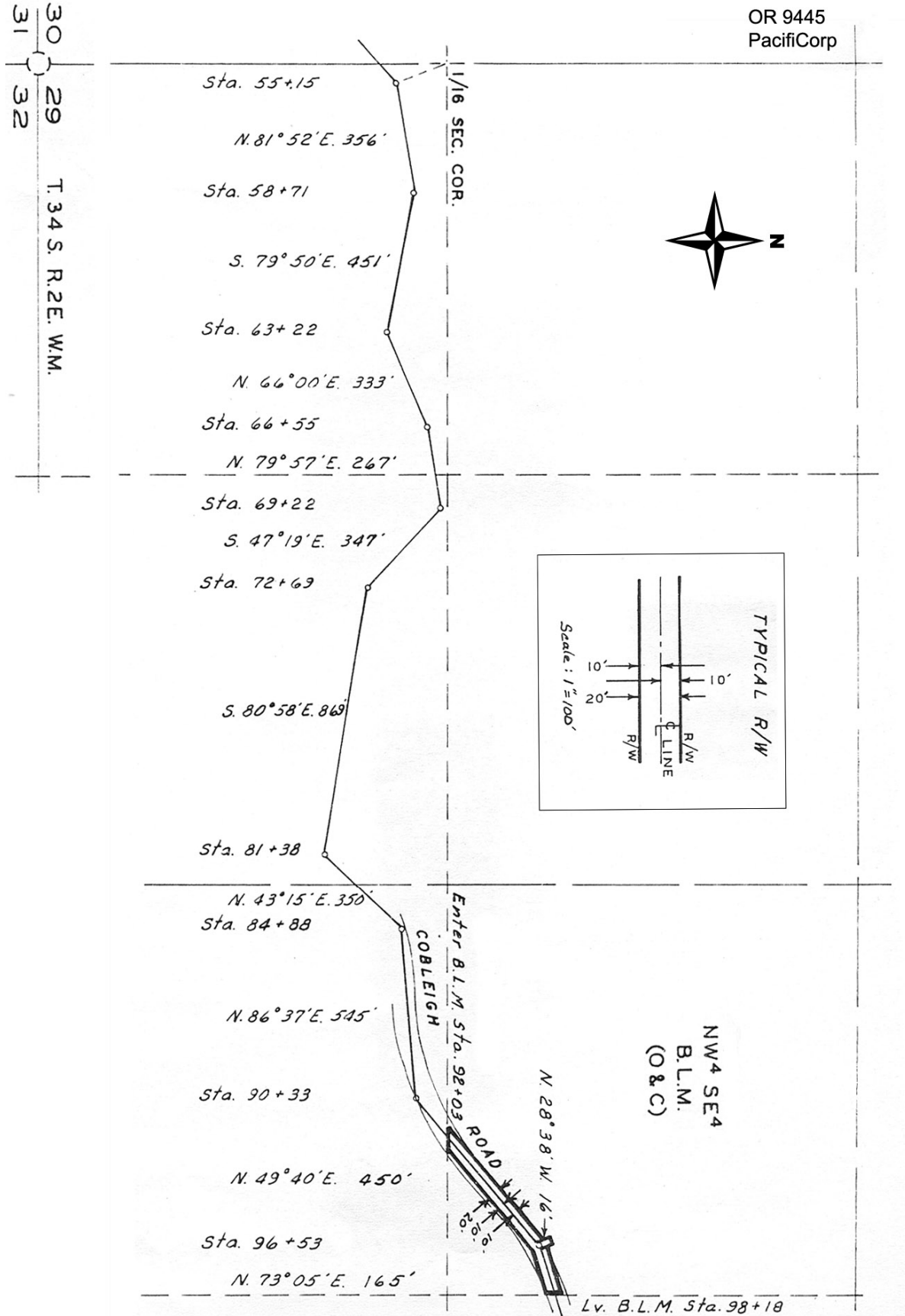
- U.S. Dept of the Interior, Office of Hearings and Appeals,  
Interior Board of Land Appeals  
801 N. Quincy Street, MS 300-QC,  
Arlington, VA 22203
- Regional Solicitor  
Pacific Northwest Region, U.S. Department of the Interior  
500 N.E. Multnomah Street, Suite 607,  
Portland, OR 97232
- PacifiCorp  
825 NE Multnomah Street, Suite 1700  
Portland, OR 97232





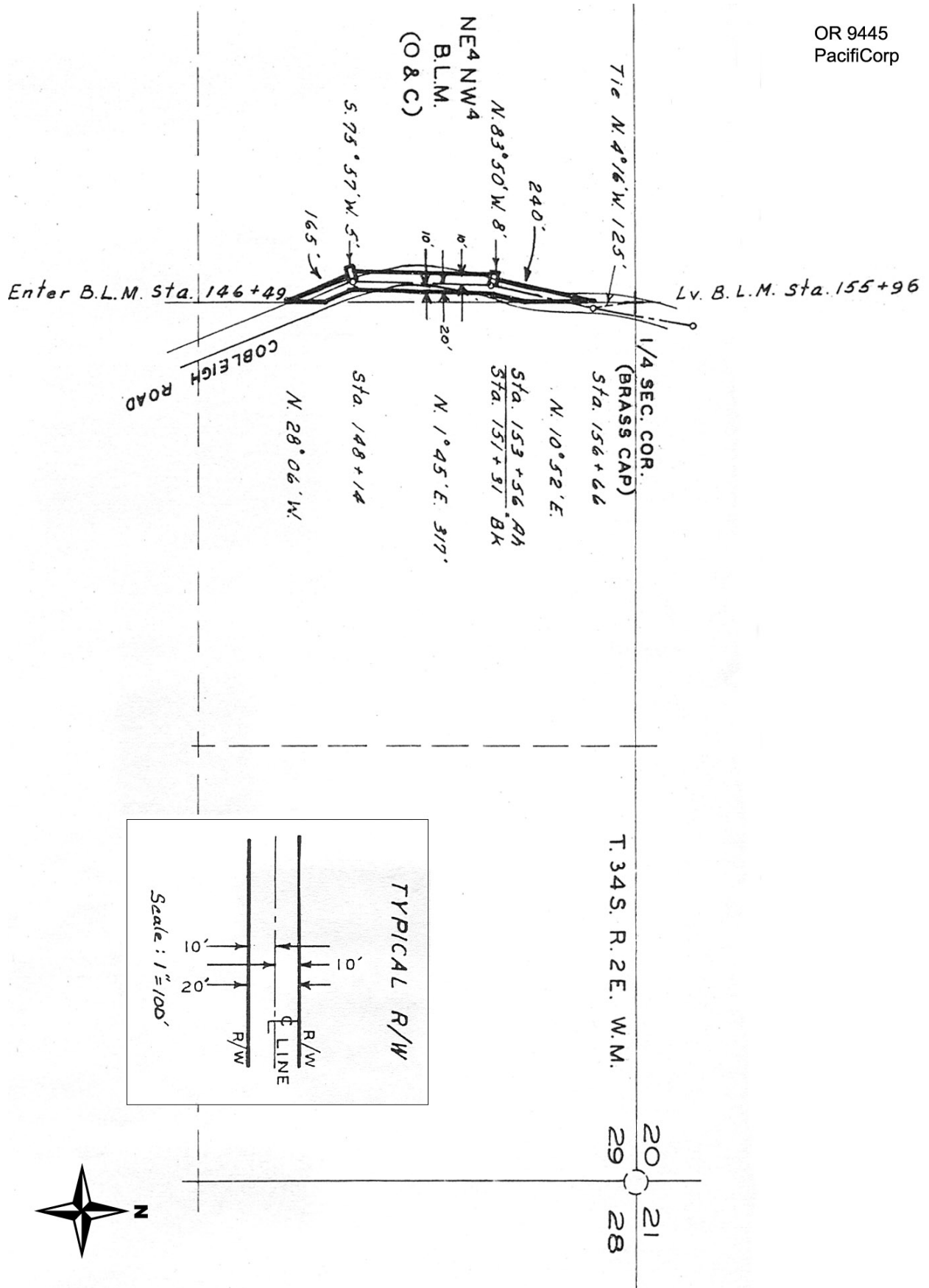
OR 9445  
PacifiCorp







OR 9445  
PacifiCorp



## Right-of-Way Photographs



Right-of-way along  
Cobleigh Road.



Right-of-way crossing  
BLM road #34-2E-20.

**NEPA Categorical Exclusion Review****Proposed Action:**

PacifiCorp has applied for reauthorization of Right-of-Way Grant OR 9445. The original authorization allowed the construction, use, maintenance, and repair of an existing 12 kV overhead electrical distribution line on Bureau of Land Management land in the Cobleigh Road area near Butte Falls, Oregon. This distribution line authorization was originally issued in April 5, 1977 and expired April 4, 2007. The line would continue to be used as originally authorized and no changes in use are proposed. The term of the new right-of-way grant would be for a fifty (50) year period. **This is an existing line and no new construction is necessary.**

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Department of the Interior Manual 516 2.3.A(3) provides for a review of the following criteria for categorical exclusion to determine if exceptions apply to the proposed action based on actions which may:

1. *Have significant impacts on public health or safety.*  
☐ Yes    ☒ No  
Initial RW Remarks:
2. *Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resource; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.*  
☐ Yes    ☒ No  
Initial RW Remarks:
3. *Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].*  
☐ Yes    ☒ No  
Initial RW Remarks:
4. *Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.*  
☐ Yes    ☒ No  
Initial RW Remarks:
5. *Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.*  
☐ Yes    ☒ No  
Initial RW Remarks:

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

☐ Yes ☒ No

Initial SS Remarks:

7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

☐ Yes ☒ No

Initial JCM Remarks:

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Plants ☐ Yes ☒ No

Initial mw

Remarks:

Animals ☐ Yes ☒ No

Initial LH

Remarks:

Fish ☐ Yes ☒ No

Initial SZ

Remarks:

2 *Fritillaria gentneri* sites -  
No Effect, covered by FY 04-08 BO

9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

☐ Yes ☒ No

Initial RW Remarks:

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

☐ Yes ☒ No

Initial RW Remarks:

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

☐ Yes ☒ No

Initial JCM Remarks:

12. Contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

☐ Yes ☒ No

Initial mu Remarks: with implementation of PDFs

**Reviewers:**

Name	Title	Date	Initials
Robyn Wicks	NEPA Coordinator	10/22/07	RW
Marcia Wineteer	Botanist	10/10/07	mw
Linda Hale	Wildlife Biologist	10/11/2007	LH
Steve Liebhardt	Fisheries Biologist	10/18/2007	SL
Shawn Simpson	Hydrology	10/18/07	SS
Ken Van Etten	Soil	10/18/07	SS
Trish Lindaman	Visual Resources/Recreation	10/18/07	TL
Leanne Mruzik	Fire/Fuels Specialist	10/22/07	LM
Ann Ramage	Cultural Resources	10/18/07	JCR
Doug Stewart	Silviculture	10-9-07	DSB
Randy Bryan	Engineering	10-15-07	RRB